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7
8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA

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11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 vs.
14 ANHWAR TELLY YOUNG,
15 Defendant.

2:09-cr-340-PMP-GWF
AMENDED ORDER

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17 On January 29, 2014 this Court ordered a competency evaluation under 18 U.S.C. § 4241(a)
18 and (b), § 4247 (b) and (c), and further evaluation pursuant to 18 U.S.C. § 4243. However, because
19 this matter arises under 18 U.S.C. § 4243(g), this Court's inquiry is limited to whether Defendant
20 failed "to comply with his prescribed regimen of medical, psychiatric, or psychological care or
21 treatment" and whether "his continued release would create a substantial risk of bodily injury to
22 another person or serious damage to property of another." 18 U.S.C. § 4243(g). A competency
23 evaluation under 18 U.S.C. § 4241(a) is undertaken "prior to sentencing" of a defendant in a criminal
24 case, "or at any time after the commencement of probation or supervised release." Defendant in this
25 case was conditionally released from confinement under 18 U.S.C. § 4243(f), and he is not subject
26 to a criminal prosecution or probation/supervised release proceeding that would trigger 18 U.S.C.
27 § 4241(a).

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1 Therefore, under 18 U.S.C. § 4243(g), this Court must make findings regarding Defendant's
2 alleged failure to comply with his prescribed treatment regimen and dangerousness. In order to make
3 the finding regarding whether continued release would create a substantial risk of injury or property
4 damage, the Court will order Defendant be evaluated and that the examiner address that issue. See
5 United States v. Phelps, 955 F.2d 1258, 1263 (9th Cir. 1992) (holding that a "district court has the
6 authority to order psychiatric examinations" because "[q]uestions of mental illness and
7 dangerousness turn 'on the meaning of the facts which must be interpreted by expert psychiatrists
8 and psychologists.'" (quoting Addington v. Texas, 441 U.S. 418, 429 (1979)).

9 Consequently, this Court amends its January 29, 2014 Order to the following:

10 **IT IS ORDERED** that a psychiatric or psychological evaluation of Defendant be conducted
11 and that a psychiatric or psychological report be filed with the Court pursuant to 18 U.S.C. § 4247
12 (b) and (c).

13 **IT IS FURTHER ORDERED** that the United States Marshals Service shall transport
14 Defendant to the institution to which Defendant is designated by the Bureau of Prisons for
15 evaluation.

16 **IT IS FURTHER ORDERED** that Defendant be held in said facility for a reasonable period
17 of time, not to exceed forty-five (45) days, unless extended after a showing of good cause that the
18 additional time is necessary to observe and evaluate Defendant. 18 U.S.C. § 4247(b).

19 **IT IS FURTHER ORDERED** that the examination conducted pursuant to this Order be by
20 one or more licensed or certified psychiatrists or clinical psychologists. 18 U.S.C. § 4247(b).

21 **IT IS FURTHER ORDERED** that the examiner provide all opinions required under 18
22 U.S.C. § 4247(c), to include 4247(c)(4), that is: "whether the person is suffering from a mental
23 disease or defect as a result of which his release would create a substantial risk of bodily injury to
24 another person or serious damage to property of another."

25 **IT IS FURTHER ORDERED** that, within ninety (90) days from the date of entry of this
26 Order, the examining psychiatrist or psychologist will file a report with the Court, with copies
27 provided to Defendant's counsel, Monique Kirtley, Assistant Federal Public Defender, 411 East
28 Bonneville Avenue, #250, Las Vegas, Nevada 89101, and counsel for the United States, J. Gregory

1 Damm, Assistant United States Attorney, 333 Las Vegas Boulevard South, Suite 5000, Las Vegas,
2 Nevada 89101.

3 **IT IS FURTHER ORDERED** that the pending revocation hearing be continued and
4 scheduled upon receipt of the psychological or psychiatric report pursuant to 18 U.S.C. § 4247.

5 DATED: March 18, 2014.

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8 UNITED STATES DISTRICT JUDGE